

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR & ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**

**Before the Commissioner of Financial and Insurance Regulation**

**In the matter of**

**XXXXX**

**Petitioner**

**File No. 89097-001**

**v**

**Liberty Union Life Assurance Company**  
**Respondent**

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**Issued and entered**  
**This 3<sup>rd</sup> day of July 2008**  
**by Ken Ross**  
**Commissioner**

**ORDER**

**I**

**PROCEDURAL BACKGROUND**

On April 10, 2008, Oakwood Hospital Medical Center, authorized representative of XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it for external review on April 24, 2008.

The Commissioner notified Liberty Union Life Assurance Company of the external review and requested the information used in making its adverse determination.

The case involves medical issues so the Commissioner assigned it to an independent review organization (IRO) which provided its recommendation to the Commissioner on May 6, 2008.

**II**

**FACTUAL BACKGROUND**

The Petitioner receives health benefits under a group policy issued by Respondent to

Randall Industries. Petitioner was diagnosed with a condition known as microscopic polyangiitis vasculitis. After trying other treatments, Petitioner's physician recommended intravenous gamma globulin treatment. Believing the treatment to be effective, Petitioner requested coverage from Liberty Union. Liberty Union denied coverage, asserting that the treatment was experimental or investigational. The Petitioner appealed but Liberty Union maintained its denial and issued a final adverse determination dated March 12, 2008.

### **III ISSUE**

Is Liberty Union correct in denying the Petitioner coverage for intravenous gamma globulin treatment for microscopic polyangiitis vasculitis?

### **IV ANALYSIS**

#### **Petitioner's Argument**

The Petitioner's representative says that they disagree that the treatment is experimental and assert that it is medically necessary. Dr. XXXXX, the Petitioner's neurologist, in a letter dated December 19, 2007, says that Petitioner had been treated with corticoid steroids but developed significant side effects including weight gain, Cushingoid appearance, peripheral edema, and hypertension. He says that treatment with intravenous gamma globulin is well-documented as a treatment for vasculitis and that the treatment did result in stabilization of Petitioner's clinical status.

#### **Respondent's Argument**

Respondent says it conducted two unrelated independent reviews of Petitioner's condition and proposed treatment. Respondent says that both reviews indicated that the treatment was experimental or investigational for Petitioner's diagnosis.

#### **Commissioner's Review**

The group health policy under which Petitioner receives benefits excludes coverage for experimental or investigational treatment. The policy, page 37, states:

No payment will be made under this Policy for expenses incurred by a Covered Person: . . .

12. for or in connection with care, services, supplies, devices or procedures which are experimental or research in nature; for purposes of this Policy, experimental procedures shall include those procedures considered such by the (Office of Health Technology Assessments) Department of Health and Human Services . . . .

The question of whether a treatment is experimental is a medical question. In reviewing adverse determinations that involve medical issues, the Commissioner obtains the analysis of an IRO. The IRO expert for this case is a physician in active practice certified by the American Board of Psychiatry and Neurology, and a member of the American Academy of Neurology. The IRO reviewer determined that intravenous gamma globulin treatment was investigational/experimental for treatment of Petitioner's condition. The IRO's recommendation was summarized in the report:

The majority of peer reviewed medical literature and references recommend treatment with steroid and/or immunosuppressors, Cytoxan, but there is no recommendation for using IVIG in such diagnosis; IVIG is still considered experimental.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner; the IRO's analysis is based on extensive expertise and professional judgment. The Commissioner can discern no reason why that judgment should be rejected in the present case. Therefore, the Commissioner accepts the findings of the IRO that the intravenous gamma globulin treatment for microscopic polyangiitis vasculitis is experimental and investigational and therefore not a covered benefit under the terms of the certificate.

## **V ORDER**

The Commissioner upholds Liberty Union Life Assurance Company's adverse determination. Liberty Union is not required to provide coverage for the Petitioner's treatment.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order

in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham

County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.